

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MICHAEL TED LAMB,
TDCJ-CID # 790214,
Plaintiff,

v.

RICHARD L. CRITES, et al.,
Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 2:11-CV-00027

**DEFENDANTS CRITES, GONZALES, JAMESON AND HASSETTE’S RESPONSE TO
PLAINTIFF’S MOTION FOR EXTENSION OF TIME TO FILE FOR DISCOVERY**

TO THE HONORABLE JUDGE OF THE DISTRICT COURT:

Defendants, Jacquelyn Jameson, Lisa Hassette, Richard Crites and Adam Gonzales, by and through the Attorney General for the State of Texas, file this Response to Plaintiff’s Motion For Extension of Time to File for Discovery. Defendants respond as follows:

I. STATEMENT OF THE CASE

Plaintiff Michael Lamb is an inmate incarcerated at the Texas Department of Criminal Justice–Correctional Institutions Division (“T.D.C.J-C.I.D”) McConnell Unit in Beeville, Texas. He brings this action pursuant to 42 U.S.C. §1983 alleging that Defendants retaliated against him for exercising his First Amendment right. Defendants filed an answer denying the allegations and asserting their entitlement to immunities.

**II. DEFENDANTS’ RESPONSE TO PLAINTIFF’S MOTION FOR EXTENSION OF
TIME TO FILE DISCOVERY**

1. Plaintiff moves to extend the discovery deadline to October 17, 2011 because of lock-downs limiting his access to the law library and his unfamiliarity with the discovery process. *Docket Entry No. 42.*

2. A request for an extension requires the movant to show good cause for additional time after the deadline and excusable neglect. *Fed. R. Civ. P.* 6(b)(1)(B).
3. To determine excusable neglect, the court must consider: (1) the danger of prejudice to the nonmovant, (2) the length of the delay and its potential impact on judicial proceedings, (3) the reason for the delay, including whether it was within the reasonable control of the movant, and (4) whether the movant acted in good faith. *Pioneer Inv. Servs. v. Brunswick Assocs.*, 507 U.S. 380, 395 (1993).
4. Defendants oppose Plaintiff's motion because he does not demonstrate any excusable neglect or good faith for extending the September 16, 2011 discovery deadline to October 17, 2011.
5. Plaintiff presents nothing to show that he has been reasonably diligent in serving his discovery requests to Defendants.
6. In fact, the main reason for the extension is that Plaintiff is dissatisfied with Defendants' objections to his vague and nonspecific requests for production of document.
7. It appears that he wants more time to redo his discovery requests in order to overcome Defendants' objections.
8. He alleges that he wants to serve Defendants with interrogatories and a request for production of documents. *See Docket Entry No. 42* at 2.
9. When Plaintiff filed this motion, he could have served those discovery requests to Defendants without the need for an extension but he failed to do so.
10. Plaintiff simply has not used his time wisely and failed to act in good faith.
11. Clearly, the extension of time is not needed because of any delay resulting from events not within Plaintiff's reasonable control.

12. Furthermore, Plaintiff does not need to conduct any additional discovery because Defendants have disclosed to Plaintiff the records related to the events giving rise to this lawsuit.
13. Given the above arguments, Defendants ask this court to deny Plaintiff's motion for extension of time to conduct discovery and all other relief requested in that motion.

Respectfully submitted,

GREG ABBOTT

Attorney General of Texas

DANIEL T. HODGE

First Assistant Attorney General

BILL COBB

Deputy Attorney General for Civil Litigation

DAVID C. MATTAX

Director of Defense Litigation

DAVID A. TALBOT, JR.

Assistant Attorney General

Chief, Law Enforcement Defense Division

/s/Nadine Phillpotts

NADINE PHILLPOTTS

Assistant Attorney General

Attorney-In-Charge

State Bar No. 24058045

Southern District No. 939905

P. O. Box 12548, Capitol Station

Austin, Texas 78711

(512) 463-2080 / Fax (512) 495-9139

ATTORNEYS FOR DEFENDANTS

NOTICE OF ELECTRONIC FILING

I, **NADINE PHILLPOTTS**, Assistant Attorney General of Texas, do hereby certify that I have electronically submitted for filing, a true and correct copy of the above and foregoing **Defendants Crites, Gonzales, Jameson, and Hassette's Response to Plaintiff's Motion For Extension of Time to File For Discovery** in accordance with the Electronic Case Files system of the Southern District of Texas on this the 22nd day of August 2011.

/s/Nadine Phillpotts
NADINE PHILLPOTTS
Assistant Attorney General

CERTIFICATE OF SERVICE

I, **NADINE PHILLPOTTS**, Assistant Attorney General of Texas, do hereby certify that a true and correct copy of the foregoing **Defendants Crites, Gonzales, Jameson, and Hassette's Response to Plaintiff's Motion For Extension of Time to File For Discovery** has been served by placing the same in the United States Postal Service, postage prepaid, on this the 22nd day of August 2011 addressed to Plaintiff:

Michael Lamb, TDCJ-CID #790214
TDCJ - McConnell Unit
3001 South Emily
Beeville, TX 78102
Appearing Pro Se

/s/Nadine Phillpotts
NADINE PHILLPOTTS
Assistant Attorney General